

Item C-2-c: Facilities Subject to §1616(e) of the Social Security Act

Instructions

Indicate whether waiver services are furnished in facilities that are subject to §1616(e) of the Act. If not, do not complete the remainder of this item. If services are furnished in such facilities, complete the next three items. The web-based application differs somewhat from the word-processor application in how information is entered to complete this item.

Technical Guidance

§1616(e) of the Act (also known as the Keys Amendment) requires that a state adopt standards that apply to facilities (e.g., group homes, congregate living arrangements) that serve Supplemental Security Income (SSI) recipients. The text of Section §1616(e) is included in Attachment D. When waiver services are furnished in such facilities, the facilities must be in compliance with the state's Keys Amendment standards. The Keys Amendment does not apply to a participant's private residence or other non-facility community living arrangements (e.g., the family home or a living arrangement that a person shares with a friend).

Do not submit the state's Keys Amendment standards with the application. These standards must be readily available through the Medicaid agency or the operating agency (if applicable) upon request by CMS.

Item C-2-c-i: Types of Facilities Subject to §1616(e)

Instructions

When waiver services are furnished in facilities that are subject to the Keys Amendment, list the *types* of facilities by title (e.g., assisted living facility, community group home) that are subject to §1616(e) where waiver services are furnished. For each type of facility, specify the waiver services (e.g., residential habilitation, respite) that are furnished in the facility and the maximum number of individuals who may be served in each type of facility as specified in state law or regulation. If there is no maximum, respond "N/A."

Technical Guidance

When listing the types of facilities, use titles that correspond to those that are used in the service specifications in Appendix C-3. With respect to the waiver services that are furnished in such facilities, also use the service titles that are specified in Appendix C-1/Appendix C-3.

CMS Review Criteria

When waiver services are furnished in facilities subject to §1616(e) of the Act:

- Each type of facility is listed by title;
- The waiver services that are provided in each type of facility is specified; and,
- The maximum number of individuals who may be served in each type of facility is specified, if applicable.

Item C-2-c-ii: Larger Facilities

Instructions

For each type of facility identified in Item C-2-c-i that serves four or more individuals who are unrelated to the provider (regardless of whether the persons served receive waiver services), describe in the text field how a home and community character is maintained.

Technical Guidance

A “home and community character” includes describing how the facility is community-based, provides an environment that is like a home, provides full access to typical facilities in a home such as a kitchen with cooking facilities, small dining areas, provides for privacy and easy access to resources and unscheduled activities in the community. In addition, residents should have the opportunity for visitors at times of preference and convenience to them. Waiver services should not be provided in institution-like settings except when such settings are employed to furnish short-term respite to individuals.

CMS Review Criteria

A home-like character is maintained in larger settings, i.e. the facility is community-based, provides an environment that is like a home, provides full access to typical facilities in a home such as a kitchen with cooking facilities, small dining areas, provides for privacy, visitors at times convenient to the individual and easy access to resources and activities in the community.

Item C-2-c-iii: Scope of Facility Standards

Instructions

Enter the title of each type of facility listed in Item C-2-c-i in the column header of this table. If necessary, insert additional columns. For each type of facility, indicate whether the state’s standards address the topics listed. If a topic is not addressed for one or more types of facilities, in the text field explain why the standard is not addressed or is not relevant to the facility type or types of individuals served in a facility. Also, explain how the health and welfare of participants is assured in the standard area that is not addressed.

Technical Guidance

The standards-related topics listed in the table are commonly addressed in state licensing/facility standards.

CMS Review Criteria

When a standards-related topic is not addressed, there is an explanation why the standard is not addressed or is not relevant to the facility type or population served in the facility and the state has explained how the health and welfare of waiver participants are assured in the standard area that is not addressed.

Discussion: Items C-2-d and C-2-e

Items C-2-d and C-2-e address similar topics but are distinct. Both concern state policies regarding payment for the provision of waiver services by individuals who are related to the participant (and, in the case of Item C-2-e, a legal guardian of a participant). However, the scope of Item C-2-d is narrow. It solely concerns payment for the provision of *personal care or similar services by legally responsible individuals* (e.g., a parent of minor child or a spouse). The instructions for Item C-2-d below define “personal care or similar services.”

Item C-2-e addresses state policies regarding the payment for the provision of *any type of waiver service* by a relative or legal guardian, including the provision of services other than personal care by legally responsible individuals (keeping in mind that the provision of personal care or similar services by such persons has been addressed in Item C-2-d). In this item, a state specifies

whether it permits payments to relatives or legal guardians for waiver services and, if so, any conditions or limitations that the state places on such payments. For example, a state may decide to make payments to relatives or legal guardians only in certain circumstances, for limited periods of time, or permit payment to be made only to specified types of relatives (e.g., relatives who do not reside in the same household as the participant).

It is up to the state to decide whether to provide for either type of payment and, when such payments are made, to specify the circumstances when they are permitted. In the Appendix C-3 service specification template, there are check-offs as to whether the state allows for the provision of a service by a legally responsible individual and/or a relative/legal guardian. The conditions on payment specified in Items C-2-d and C-2-e apply to these check-offs. For example, if a state provides in Item C-2-e that a relative may furnish waiver transportation services only when there is no other provider available, then that condition applies when “relative/legal guardian” is checked as a potential provider of the transportation service in Appendix C-3.

Whenever a legally responsible individual or relative/legal guardian is paid for the provision of a waiver service, the person must meet the provider qualifications that apply to a service and there must be a properly-executed provider agreement. In addition, other requirements such as the proper documentation and monitoring of the provision of services also apply.